

18.11.2022

Sl. No.3
akd
[PARTLY
ALLOWED]

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri

C. R. M. (DB) 431 of 2022

In Re: An application for bail under Section 439 of the Code of Criminal Procedure filed on 15.11.2022 in connection with Mathabanga Police Station Case No.380 of 2020 dated 17.09.2020 under Sections 147/148/149/324/326/302 of the Indian Penal Code. (G.R. Case No.652 of 2020)

And

In Re: ***Ramkumar Sarkar & Anr.***

... .. Petitioners

Mr. Tanmay Basu
Mr. Subhasis Mishra

... .. for the petitioners

Mr. Aditi Sankar Chakraborty .. Id. Addl. Public Prosecutor
Mr. Ujjwal Luksom

... .. for the State

It is submitted on behalf of the petitioners that they are in custody for about 97 days. It is further submitted co-accused viz. Nandalal Sarkar has been enlarged on bail.

Learned Additional Public Prosecutor opposes the prayer for bail.

We have considered the materials on record. Nandalal Sarkar was not named as an assailant by one of the injured witness namely, Bimal Sarkar. Petitioner no.2 stands on the same footing with Nandalal Sarkar. However, petitioner no.1 has been named by both the injured witnesses i.e. Bimal Sarkar and his wife namely, Mamata Sarkar.

Under such circumstances, we are not inclined to grant bail to the petitioner no.1 namely, **(1) Ramkumar Sarkar** at this stage.

However, we direct that petitioner no.2 may be enlarged on bail on parity.

Therefore, the accused/petitioner no.2 namely **(2) Uttam Sarkar**, be released on bail upon furnishing a bond of Rs.10,000/- (Rupees Ten thousand only), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Mathabhanga, Cooch Behar subject to condition that the said petitioner no.2 shall appear before the trial court on every date of hearing until further orders and shall not intimidate witnesses or tamper with evidence in any manner whatsoever.

In the event he fails to appear before the trial court without justifiable cause, the trial court shall be at liberty to cancel his bail automatically without reference to this court.

The application for bail is thus disposed of.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)